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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/642,267	08/18/2000	Kenneth R Goguen	07072-939001	7447
7590		12/13/2004	EXAMINER	
Hale and Dorr LLP		BARAN, MARY C		
60 State Street		ART UNIT		
Boston, MA 02109		PAPER NUMBER		

2857

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/642,267

Applicant(s)

GOGUEN ET AL.

Examiner

Mary Kate B Baran

Art Unit

2857



--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 01 September 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

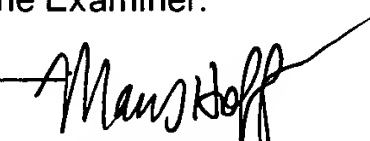
Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

10. ☐ Other: _____


MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that combination of Voigt (U.S. Patent No. 5,623,598) and Harrison (U.S. Patent No. 6,128,717) does not teach "executing at a plurality of said host computers a test request by sending commands to said mass storage system, and accumulating, at said executing host computers, data regarding performance of said mass storage system, in response to the requests sent by said host computers." Applicant's arguments are not well taken. Voigt teaches that firmware is installed in a controller to collect measurement data (see Voigt, column 5 lines 14-19). This controller located in the data storage system is independent of the host computer disclosed in Voigt (see Voigt, Figure 1 "data storage system 14", "host 12"). Voigt does not teach modifying the host computer in any way, such as installing software, in order for the host computer to request data. Therefore, if a network environment (i.e., plurality of host computers) as taught in Harrison (see Harrison, column 7 lines 3-11 and Figure 2) were connected to the data storage system, as taught by Voigt (see Voigt, column 2 lines 65-67 and Figure 1), each individual host would have the same ability to send requests and collect the requested data (see Voigt, column 5 lines 20-24)

Applicant further argues that Harrison does not teach collected data regarding the performance of a mass storage system. Applicant's arguments are not well taken. Performance is the way in which something functions. Harrison teaches collecting disk data pertaining to the total number of read/write operations (see Harrison, column 12 lines 45-46), the total number of reads in a time unit (see Harrison, column 12 lines 47-48), the number of writes in a time unit (see Harrison, column 12 lines 48-49), and various other types of functional data (see Harrison, column 12 lines 39-65).